2021

CUMULATIVE SUPPLEMENT

TO

MISSISSIPPI CODE

1972 ANNOTATED

Issued September 2021

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH 2021 REGULAR SESSION
OF THE LEGISLATURE

PUBLISHED BY AUTHORITY OF
THE LEGISLATURE

SUPPLEMENTING

Volume 16B

Title 75 (Chapters 9 to 11)

(As Revised 2016)

For latest statutes or assistance call 1-800-833-9844

By the Editorial Staff of the Publisher

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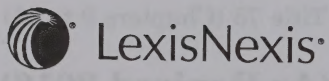

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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

PUBLISHER'S FOREWORD

Statutes

The 2021 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2021 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 4th Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2021 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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September 2021 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

There are no new sections added in this supplement.

MISSISSIPPI CODE
1972
ANNOTATED

VOLUME SIXTEEN B

TITLE 75.

REGULATION OF TRADE, COMMERCE AND INVESTMENTS

Chapter 9. Uniform Commercial Code—Secured Transactions. 75-9-101

CHAPTER 9.

UNIFORM COMMERCIAL CODE—SECURED TRANSACTIONS

Part 5. Filing. 75-9-501

PART 1.

GENERAL PROVISIONS.

SUBPART 1.

SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS.

§ 75-9-102. Definitions and index of definitions.

JUDICIAL DECISIONS

ANALYSIS

I. Under Current Law.

1.9. "General intangible."
4. "Proceeds."

I. Under Current Law.

1.9. "General intangible."

Trust that was created to liquidate and distribute assets that belonged to a phosphate company that declared Chapter 11 bankruptcy was entitled to a refund a power company paid after the Mississippi Supreme Court overturned a rate increase that was approved by the Mississippi Public Service Commission; the refund was a "general intangible," as that term was defined in Miss. Code Ann. § 75-9-102, not the proceeds of a constitutional tort, and the trust had a right to payment of the refund under an agreement it entered

to purchase assets that belonged to the phosphate company. MPC Liquidation Trust v. Miss. Phosphates Corp. (In re Miss. Phosphates Corp.), 2017 Bankr. LEXIS 5 (Bankr. S.D. Miss. Jan. 3, 2017).

4. "Proceeds."

Assuming the creditors had valid, perfected security interests in the trucks, lease payments for the trucks were proceeds of the collateral under Nevada law as although Nevada deferred to Mississippi law with respect to the perfection of a security interest in the trucks, the Mississippi Motor Vehicle and Manufactured Housing Title Law did not provide a method for perfection of the proceeds of a vehicle; the payments were proceeds of the trucks and any perfection of security interests in the trucks continued automatically in the payments, but a fact issue remained as to whether the security interest in the cash proceeds were identifiable and continued beyond the 20th day after attachment. Nat'l Truck Funding LLC v. Yolo Capital Inc. (In re Nat'l Truck Funding LLC), 589 B.R. 294, 2018 Bankr. LEXIS 182 (Bankr. S.D. Miss. 2018).

§ 75-9-103. Purchase-money security interest; application of payments; burden of establishing.

JUDICIAL DECISIONS

I. Under Current Law.

5. Illustrative cases.

Chapter 13 debtors were not prohibited by 11 U.S.C.S. § 1325 (hanging paragraph referencing paragraph 5) from bifurcating a debt they owed a bank that was secured by an automobile they owned into a secured claim in the amount the car was worth and an unsecured claim for the balance of the debt because a purchase money security interest the bank obtained when the debtors purchased the car was transformed into a non-purchase money security interest when the debtors obtained an additional loan from the bank that was secured by the car and used proceeds from that loan to pay off unsecured loans they obtained; the court was allowed under Miss. Code Ann. § 75-9-103 to apply the transformation rule. In re Jett, 563 B.R. 206, 2017 Bankr. LEXIS 30 (Bankr. S.D. Miss. 2017).

PART 3.

PERFECTION AND PRIORITY.

SUBPART 2.

PERFECTION.

§ 75-9-315. Secured party's rights on disposition of collateral and in proceeds.

JUDICIAL DECISIONS

ANALYSIS

II. Under Former § 75-9-306.

B. Security Interest as Continuing.

17. Identifiable proceeds.

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SUBPART 3.

PRIORITY.

§ 75-9-320. Buyer of goods.

JUDICIAL DECISIONS

I. Under Current Law.

1. Buyers in ordinary course of business.

Bank could not recover from the nondiverse grain terminals where the terminals had purchased the soybeans and corn from a company that purchased farm products from farmers, and as a result. they qualified as buyers in the ordinary course of business and had not bought farm products from a person engaged in farming operations. Guar. Bank & Trust Co. v. FGDI Div. of Agrex, Inc., 2014 U.S. Dist. LEXIS 41985 (N.D. Miss. Mar. 28, 2014).

PART 5.

FILING.

Part
Subpart 1. Filing Office; Contents and Effectiveness of Financing Statement...

SUBPART 1.

FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT.

Sec.
75-9-503. Name of debtor and secured party.

§ 75-9-503. Name of debtor and secured party.

(a) A financing statement sufficiently provides the name of the debtor:

(1) Except as otherwise provided in paragraph (3), if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's

jurisdiction of organization which purports to state, amend or restate the registered organization's name;

(2) Subject to subsection (f) if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that collateral is being administered by a personal representative;

(3) If the collateral is held in a trust that is not a registered organization, only if the financing statement:

(A) Provides, as the name of the debtor:

(i) If the organic record of the trust specifies a name for the trust, the name specified; or

(ii) If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) In a separate part of the financing statement:

(i) If the name is provided in accordance with subparagraph (A)(i), indicates that the collateral is held in a trust; or

(ii) If the name is provided in accordance with subparagraph (A)(ii), provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(4) Subject to subsection (g), if the debtor is an individual to whom this state has issued a driver's license or nondriver's identification card that has not expired, or if the debtor furnishes a valid identification card issued by a federally recognized Indian tribe that contains a color photograph of the card holder and the card holder's legal name, residence address and date of birth that has not expired, only if the financing statement provides the name of the individual which is indicated on the driver's license, nondriver's identification card or tribal identification card;

(5) If the debtor is an individual to whom paragraph (4) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

(6) In other cases:

(A) If the debtor has a name, only if the financing statement provides the organizational name of the debtor; and

(B) If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

(1) A trade name or other name of the debtor; or

(2) Unless required under subsection (a)(6)(B), names of partners, members, associates, or other persons comprising the debtor.

(c) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) A financing statement may provide the name of more than one (1) debtor and the name of more than one (1) secured party.

(f) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection (a)(2).

(g) If this state has issued to an individual more than one (1) driver's license or nondriver's identification card of a kind described in subsection (a)(4), the one that was issued most recently is the one to which subsection (a)(4) refers.

(h) In this section, the "name of the settlor or testator" means:

(1) If the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

(2) In other cases, the name of the settlor or testator indicated in the trust's organic record.

HISTORY: Former 1972 Code § 75-9-503 [Codes, 1942, § 41A:9-503; Laws, 1966, ch. 316, § 9-503, eff March 31, 1968] is now found in comparable provisions enacted at § 75-9-609 by Laws, 2001, ch. 495, § 1. Present § 75-9-503 was derived from former 1972 Code § 75-9-402 [Codes, 1942, § 41A:9-402; Laws, 1966, ch. 316, § 9-402; Laws, 1968, ch. 490, § 1; Laws, 1977, ch. 452, § 25, eff from and after April 1, 1978] and was enacted by Laws, 2001, ch. 495, § 1; Laws, 2013, ch. 451, § 13, eff from and after July 1, 2013; Laws, 2021, ch. 378, § 8, eff from and after July 1, 2021.

Amendment Notes — The 2021 amendment, in (a)(4), inserted "or if the debtor furnishes a valid identification card...date of birth that has not expired," and added "or tribal identification card" and made a related change.